IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

OP.No. 33541 of 2001(R)

PETITIONER:
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1. SR.MARY BERTILLA, MOTHER SUPERIOR,
MANAGER, ST.TERESA'S CONVENT GIRLS HIGH SCHOOL,
NEYYATTINKARA.

2. SR.BLOSSY JOSEPH, HEADMISTRESSES,
ST. TERESA'S CONVENT GIRLS HIGH SCHOOL,
NEYYATTINKARA.

BY ADV. SRI.R.PRAVEEN
SRI.SEBASTIAN VARGHESE
SRI.LAL GEORGE

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY OF GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. NEYYATTINKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE,
NEYYATTINKARA.

BY ADV. SRI.PIRAPPANCODE V.SREEDHARAN NAIR
SRI.SEBASTIAN VARGHESE
SRI.S.P.ARAVINDAKSHAN PILLAY
SRI.PIRAPPANCODE V.S.SUDHIR
GOVERNMENT PLEADER

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 33541/2001

ORDER ON CMP 54841/2001 IN O.P.No. 33541/2001

DISMISSED.

22/02/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE DEMAND NOTICE NO. R1/5192/98 DATED 15/6/2001.

EXT.P2 COPY OF THE DEMAND BILL NO. 1316 DATED 15/6/2001.

EXT.P3 COPY OF THE REPRESENTATION BEFORE THE 2ND RESPONDENT DATED 30/6/2001.

EXT.P4 COPY OF THE MAHAZAR OF SEIZURE DATED 28/7/2001.

EXT.P5 COPY OF THE ORDER NO. 30949/B4/2001/LAD DATED 30/7/2001.

EXT.P6 COPY OF REPRESENTATION ADDRESSED TO THE 1ST RESPONDENT.

EXT.P7 COPY OF THE REPRESENTATION ADDRESSED to the 2ND RESPONDENT.

EXT.P8 COPY OF THE DEMAND NOTICE NO.R1/5792/99 DATED 27/9/2001.

EXT.P9 COPY OF THE ORDER IN CMP NO. 36732/2001 IN O.P.No. 22532/2001.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 33541 of 2001 R

Dated, this the 22nd day of February, 2007

J U D G M E N T

The petitioner is contesting demand of service tax against a school. However it is seen that in similar case, vide judgment in WPC 22532/2001 dated 15/03/2004, this Court had left the matter to be reconsidered by the Municipality because there is specific exemption for school buildings from payment of property tax. The learned counsel for the Municipality however submitted that though exemption is granted for schools from property tax under Municipality Act, there is no provision for granting exemption to educational institutions from payment of service tax. The petitioner, on the other hand, contended that service rendered by School will not attract any service tax. In any case, since this Court has remanded the case of another School by the decision of the Municipality and since there has to be uniformity, I direct the Municipality to consider petitioner's objection and decide the matter afresh with reference to the

statutory provisions and in line with the decision taken in other case referred above. Petitioner will be given an opportunity of being heard before taking final decision by the Municipality.

This original petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg